Form No. J.(2)
Item No.1
NB/PG AR(Ct.)

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 01.08.2025

DELIVERED ON: 01.08.2025

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

WP.TT 19 of 2025

M/s. Windson International & Anr.
Vs.
Deputy Commissioner, Commercial Taxes,
Ezra Street Charge & Ors.

Appearance:-
Mr. Shobhantanu Bhattacharya
Mr. Uttam Baidya ..... for the petitioners

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal ....for the respondents

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This writ petition has been filed challenging the order passed by the West Bengal Taxation Tribunal (for brevity, 'the tribunal') dated 24th February, 2025 in RN-212 of 2024 by which the application filed by the writ petitioners challenging the order passed by the revisional authority was rejected.
2. We have heard Mr. Shobhantany Bhattacharya, learned advocate for the petitioner and Mr. Tanoy Chakraborty, learned advocate for the respondents.
3. The writ petitioners are aggrieved by not granting the input tax credit allowable to them for the year 2015-2016 and the year 2016-2017.
4. As could be seen from the assessment order dated 16th February, 2018 for the period 2015-2016, the assessing officer held that net tax credit allowed under

section 22(17) of the West Bengal Value Added Tax Act, 2003 (for brevity 'the Act') is Rs. 78,62,235.00/- and in the computation, the net tax credit carried forward to the next year has been mentioned as Rs. 14,57,009.48/- .The writ petitioners filed two affidavits stating that for the period 2015-2016 last quarter i.e. March, 2016, they have carried forward the input tax credit amounting to Rs. 14,57,009.48/-but wrongly the amount was not taken in the 1st quarter return in Form-14 i.e. June, 2016 for the period 2016-2017 and requested to consider the same and allow the input tax credit for the year 2016-2017 and also refund the same amount in the year 2016-2017, in case refund arises. Another affidavit was filed by the writ petitioners before the assessing officer to the same effect. However, these affidavits have not been considered.

5. The petitioners earlier filed an application before the learned tribunal challenging the order dated 26th June, 2019 passed by the Deputy Commissioner of Commercial Taxes. The learned tribunal by an order dated 3rd July, 2024 disposed of the application by granting liberty to the petitioners to file a revisional application against the said order with a direction to the revisional authority to dispose of the matter within a timeframe. In accordance with the liberty granted, the petitioners filed a revision petition before the revisional authority viz., the Additional Commissioner, West Bengal Commercial Taxes.

6. In the meantime, the assessing officer viz., Deputy Commissioner of Commercial Taxes initiated *suo moto* review under section 88 of the Act and held that there is no apparent mistake in law in the assessment order dated 28th March, 2019 and rejected the *suo moto* revision petition. The matter was ultimately dealt with by the revisional authority viz, the Additional Commissioner of Commercial Taxes, Dharmatala Circle in a petition filed

under section 86 of the Act and the computation as made in the said order dated 9th August, 2024 the following has been mentioned:

Particulars	Amount(Rs.)	Output tax(Rs)
Turnover of sale on which tax is payable & output tax thereon	17455634.00	872781.70
Taxable turnover of purchase & output tax thereon	1318700.25	29501.00
Total output tax payable	-	902282.70
Net tax credit allowed u/s 22(17)	3636100.00	
Amount of ITC adjusted with tax payable under CST Act, 1956.	1901272.00	
Net tax credit c/f to the next year	1876340.00	
Amount of ITC adjusted with output tax for this period	141512.00	
Net tax payable	760770.70	
(Add) Penalty payable u/s 46(2)	0.00	
(add) Late fee payable u/s 32(2)	0.00	
(Add) Interest payable u/s 33	329826.00	
Total amount payable	1090596.70	

7. As could be seen from the above tabulated statement, net tax credit allowed under section 22(17) is Rs. 36,36,100.00/- and the net tax payable is Rs. 760770.70/- after adding penalty and late fee and interest, the total amount payable has been quantified as Rs. 10,90,596.70/-. Thus, the revisional authority has come to the conclusion that the net tax credit allowable under section 22(17) is Rs. 36,36,100.00/-. However, this has not been permitted to be adjusted against the tax liability.

8. We are conscious of the fact that for rectifying the return, time limit has been stipulated. However, we find that the petitioners' case is that there is excess refundable input tax credit and the following computation has been given by the petitioners.

	Particulars	Amount(Rs.)	Amount(Rs.)
	ITC b/f from previous year 2015-16		14,57,009.48
	ITC for the Current year 2016-17		38,19,168.00
	Total Claim of ITC		52,76,117.48
Less:	Output Tax payable under WBVAT Act	41,556.00	
	Output Tax payable under CST Act	19,01,272.00	
	Less:Aggregate amount of Output Tax payable:		19,42,828.00
	Excess Refundable ITC		33,33,349.48

9. After perusing the assessment order, the order passed by the revisional authority as well as the order passed by the learned tribunal, we find that no comment has been made by any of the authorities on the above computation nor there has been any cross verification of the same. Nonetheless, however, the revisional authority holds that the net tax credit allowable under section 22(17) of the Act is Rs. 36,36,100.00/-. The petitioners should be granted the benefit of the same and technicalities should not stand in the way.

10. This observation is made considering the peculiar facts and circumstances of the case and not to be treated as a precedent.

11. For the above reasons, we are inclined to remand the matter back to the assessing officer. In the result, the writ petition is allowed. The order passed by the revisional Board is set aside and the matter stands remanded to the assessing officer to give credit to sum of Rs. 36,36,100.00/-, as has been allowed by the revisional authority in the order dated 9th August, 2024 and the appropriate revised assessment order be passed as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of server copy of this judgment and order.

12. No costs.

13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)